



U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

File: SRC-98-242-53043

Office: Texas Service Center

Date: JAN 11 2000

IN RE: Petitioner:
Beneficiary:

Petition: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(L)

IN BEHALF OF PETITIONER: SELF-REPRESENTED

Identifying data deleted to
prevent clearly identifiable
invasion of personal privacy

INSTRUCTIONS:

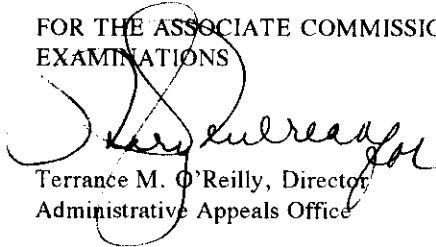
This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS


Terrance M. O'Reilly, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Texas Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner, an international trading business, seeks to employ the beneficiary temporarily in the United States in a specialized knowledge capacity as its purchasing manager. The director determined that the petitioner had not established that the U.S. entity had been conducting business.

On appeal, the petitioner submits a brief in rebuttal to the director's findings.

To establish L-1 eligibility under section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(L), the petitioner must demonstrate that the beneficiary, within three years preceding the beneficiary's application for admission into the United States, has been employed abroad in a qualifying managerial or executive capacity, or in a capacity involving specialized knowledge, for one continuous year by a qualifying organization.

8 C.F.R. 214.2(l)(1)(ii)(G) states:

Qualifying organization means a United States or foreign firm, corporation, or other legal entity which:

(1) Meets exactly one of the qualifying relationships specified in the definitions of a parent, branch, affiliate or subsidiary specified in paragraph (l)(1)(ii) of this section;

(2) Is or will be doing business (engaging in international trade is not required) as an employer in the United States and in at least one other country directly or through a parent, branch, affiliate, or subsidiary for the duration of the alien's stay in the United States as an intracompany transferee; and

(3) Otherwise meets the requirements of section 101(a)(15)(L) of the Act.

The record reflects that the U.S. company, [REDACTED] was established in 1995. The record indicates that the U.S. company is a wholly-owned subsidiary of [REDACTED] located in [REDACTED]. The petitioner seeks to employ the beneficiary for a three-year period at an annual salary of \$35,000.

At issue in this proceeding is whether the U.S. entity, [REDACTED] is doing business.

Title 8 C.F.R. 214.2(l)(1)(ii)(H) states:

Doing business means the regular, systematic, and continuous provision of goods and/or services by a qualifying organization and does not include the mere presence of an agent or office of the qualifying organization in the United States and abroad.

In his decision, the director noted that the invoices submitted by the petitioner were printed on a personal computer rather than on commercial invoice paper and business forms. The director further noted that the petitioner had not submitted requested documentation such as corporate federal tax returns, commercial bank statements, rent receipts, or payroll records for the last four years.

On appeal, the U.S. entity's vice president states in part that:

As you know [the] petitioner is a trading company, our company was founded in 1995. Our management team has over 25 years of experience in export.

[Our] Company has negotiated it's [sic] distributor agreement and [is] in discussion with several major companies in Russia and [the] U.S.A.

We have been conducting a regular, systematic course of business since 1995.

In spite of the petitioner's assertions, the record does not contain evidence such as tax records, financial statements, contracts, and invoices to demonstrate that the U.S. entity is engaged in the regular, systematic, and continuous provision of goods and/or services. For this reason, the petition may not be approved.

Beyond the decision of the director, the record contains insufficient evidence to demonstrate that the beneficiary has been and will be employed in a specialized knowledge capacity. As this matter will be dismissed on the grounds discussed, this issue need not be examined further.

In visa petition proceedings, the burden of proof remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. Here, that burden has not been met.

ORDER: The appeal is dismissed.